

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Stephen LoCurto,

Plaintiff,

MEMORANDUM & ORDER
23-CV-00386 (DG) (SJB)

-against-

NYU Langone Lutheran Hospital,

Defendant.

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DIANE GUJARATI, United States District Judge:

On August 12, 2024, Magistrate Judge Sanket J. Bulsara issued a Report and Recommendation (“R&R”) recommending that Defendant’s Motion to Dismiss, ECF No. 29, be granted in full. *See generally* R&R, ECF No. 33. More specifically, Judge Bulsara recommended that *pro se* Plaintiff’s federal claims be dismissed and that the Court decline to exercise supplemental jurisdiction over the remaining state law claims. *See* R&R at 10.¹

Subsequent to the issuance of the R&R, Plaintiff filed various letters referencing the R&R, *see* ECF Nos. 34, 35, 39, 42, 44, and 45; Defendant filed a letter in which Defendant argues, *inter alia*, that Plaintiff has not properly objected to any portion of the R&R and that the R&R “should stand and does not necessitate *de novo* review,” *see* ECF No. 47 at 2; and Plaintiff thereafter filed a letter in which he appears to request, *inter alia*, that the Court review the R&R *de novo*, *see* ECF No. 49 at 1.²

A district court “may accept, reject, or modify, in whole or in part, the findings or

¹ Familiarity with the procedural history and background of this action and of Case No. 23-CV-00387, which was brought by Plaintiff on the same day as the instant action, is assumed herein.

² Although Plaintiff filed the letter at ECF No. 49 after the deadline for filing objections to the R&R had passed, *see generally* docket, the Court nevertheless considers the letter in light of Plaintiff’s *pro se* status.

recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (providing that a district court “must determine de novo any part of the magistrate judge’s disposition that has been properly objected to”); *Arista Recs., LLC v. Doe 3*, 604 F.3d 110, 116 (2d Cir. 2010) (“As to a dispositive matter, any part of the magistrate judge’s recommendation that has been properly objected to must be reviewed by the district judge *de novo*.); *Lorick v. Kilpatrick Townsend & Stockton LLP*, No. 18-CV-07178, 2022 WL 1104849, at *2 (E.D.N.Y. Apr. 13, 2022). To accept those portions of an R&R to which no timely objection has been made, however, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Lorick*, 2022 WL 1104849, at *2 (quoting *Ruiz v. Citibank, N.A.*, No. 10-CV-05950, 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014)); *see also* *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011).

In light of Plaintiff’s filings – which the Court construes liberally, *see Erickson v. Pardus*, 551 U.S. 89, 94 (2007) – and out of an abundance of caution, the Court reviews *de novo* the entirety of the R&R. A review of the R&R, the record, and the applicable law reveals that Judge Bulsara properly concluded that the Motion to Dismiss, ECF No. 29, should be granted in full. The Court adopts the R&R.

The Motion to Dismiss, ECF No. 29, is GRANTED and the Amended Complaint, ECF No. 28, is DISMISSED. Dismissal of Plaintiff’s state law claims – over which the Court declines to exercise supplemental jurisdiction – is without prejudice.

Although Plaintiff paid the filing fee to commence this action, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good

faith and therefore denies *in forma pauperis* status for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment, close this case, and mail a copy of this Order to Plaintiff.

SO ORDERED.

/s/ Diane Gujarati
DIANE GUJARATI
United States District Judge

Dated: November 25, 2024
Brooklyn, New York